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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re

DONNELL A. RHODES,

On Habeas Corpus.

F064977

(Merced Super. Ct. No. CRM014685)

OPINION

THE COURT*

ORIGINAL PROCEEDINGS; petition for writ of habeas corpus.

Donnell A. Rhodes, petitioner, in pro per.

Kamala D. Harris, Attorney General, Michael P. Farrell, Assistant Attorney General, Carlos A. Martinez and Jamie A. Scheidegger, Deputy Attorneys General, for Respondent.

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Petitioner seeks leave to file a belated notice of appeal.

A notice of appeal must be filed within 60 days of the date of the rendition of the judgment. (Pen. Code, § 1237.5; Cal. Rules of Court, rules 8.304 & 8.308.)

*Before Cornell, Acting P.J., Gomes, J., and Franson, J.

Petitioner was convicted pursuant to plea agreement on February 10, 2012, and sentenced to eight years in prison. Petitioner attempted to file a timely notice of appeal on or around March 23, 2012, challenging the validity of his plea, and sought a certificate of probable cause within 60 days of the date of judgment. The request for a certificate of probable cause was denied on April 3, 2012, and the appeal was deemed inoperative. On June 1, 2012, petitioner filed a petition for writ of habeas corpus asking this court to construe his notice of appeal as seeking review of sentencing issues for which a certificate of probable cause is not required.

On August 7, 2012, this court issued an order granting the Attorney General leave to file a response limited to the issue of whether petitioner should be granted leave to file a belated notice of appeal limited to his sentence and “[g]rounds that arose after entry of the plea and do not affect the plea’s validity.” On August 24, 2012, the Attorney General submitted a letter brief informing this court that it does not oppose the proposed relief.

DISPOSITION

Petitioner is entitled to relief. Petitioner is granted leave to file a notice of appeal **limited to sentencing and matters occurring after the entry of the plea that do not affect the validity of the plea** on or before October 1, 2012, in Merced County Superior Court No. CRM014685. Let a writ of habeas corpus issue directing the Merced County Superior Court, if the court receives the notice of appeal on or before October 1, 2012, to file the notice of appeal, to treat the notice of appeal as being timely filed, and to process the appeal in accordance with the applicable rules of the California Rules of Court.